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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FCC 95-143 - 07

In the Matter of)
)
Policies and Rules Concerning)
Children's Television Programming) MM Docket No. 93-48
)
Revision of Programming Policies)
for Television Broadcast Stations)

NOTICE OF PROPOSED RULE MAKING

Adopted: April 5, 1995

Released: April 7, 1995

By the Commission: Commissioner Quello issuing a statement; Commissioner Barrett concurring in part, dissenting in part and issuing a statement; Commissioners Ness and Chong issuing separate statements.

Comment Date: June 16, 1995

Reply Comment Date: July 17, 1995

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I. SUMMARY

1. Congress enacted the Children's Television Act of 1990 ("CTA") to "increase the amount of educational and informational broadcast television programming for children."¹ In the CTA, Congress specifically found, *inter alia*, that "television can assist children to learn important information, skills, values and behavior, while entertaining them and exciting their curiosity to learn about the world around them," and that "as part of their obligation to serve the public interest, television station operators and licensees should provide programming that serves the special needs of children."² Congress was concerned, however, that market forces had produced "disturbingly little" educational and informational programming for children.³

2. Congress observed that "it is well established that in exchange for 'the free and exclusive use of a valuable part of the public domain,' a broadcaster can be required to act

¹Children's Television Act of 1989, Senate Committee on Commerce, Science and Transportation, S. Rep. No. 227, 101st Cong., 1st Sess. 1, 9 (1989) ("Senate Report").

The other provisions of the CTA, those intended to protect children from overcommercialization of programming, are not at issue in this proceeding.

²Children's Television Act of 1990, Title I, sec. 101.

³Senate Report at 7.

as a public fiduciary, obligated to serve the needs and interests of its area."⁴ Congress further stated that "[a]s a part of public interest obligation, broadcasters can and indeed must be required to render public service to children."⁵ As a consequence, Congress directed the Commission to review, in any application for license renewal, whether a television broadcast licensee had "served the educational and information needs of children through the licensee's overall programming, including programming specifically designed to serve such needs."⁶

3. The Commission adopted rules implementing the CTA in 1991.⁷ In 1993, the Commission, in light of its experience in reviewing more than 320 television license renewals, began an inquiry to examine whether our rules should be revised. Based on that inquiry, this Notice of Proposed Rule Making proposes changes to our rules to make them as clear as possible to facilitate licensee compliance with the CTA, and to strengthen the functioning of the children's television marketplace.

4. In developing these proposed changes, the Commission has followed three principles. The first principle is that judgments of the quality of a licensee's programming, educational or otherwise, are best made by the audience, not by the federal government. To enable audiences to make these judgments, the Commission must ensure that key members of the market – e.g., parents – receive the information they need to participate in a meaningful fashion. Therefore, we propose to require broadcasters to identify educational programming in materials provided to publishers of television schedules, and to improve the quality of, and public access to, the information broadcasters make available regarding their efforts in providing children's programming.

5. By improving the information available to parents and local communities, we can enable them to be better informed consumers, influencing the market through their choices. With better information, parents, educators, and child advocacy groups also can more effectively use community-based efforts to seek changes in children's programming without resorting to governmental intervention. These groups also can be more effective in facilitating enforcement of the CTA.

⁴Children's Television Act of 1989, House Committee on Energy and Commerce, H. Rep. 385, 101st Cong., 1st Sess. 1, 10 (1989) ("House Report").

⁵Id.; Senate Report at 16.

⁶47 U.S.C. § 303b(a)(2).

⁷Report and Order, In the Matter of Policies and Rules Concerning Children's Television Programming and Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations, MM Docket Nos. 90-570 and 83-670, 6 FCC Rcd 2111 ("Report and Order"), recon. granted in part, 6 FCC Rcd 5093 (1991) ("Memorandum Opinion and Order").

6. The second principle the Commission has followed is that our rules and processes should be as clear, simple, and fair as possible. To this end, we believe that we should revise our definition of "educational and informational" programming. The current definition is ambiguous and therefore fails to give licensees clear guidance. Indeed, some licensees have interpreted this definition to include general audience news and game shows. Moreover, we have never defined what constitutes programming "specifically designed" to serve children's educational and informational needs, even though the CTA expressly requires each licensee to provide such programming. We are concerned that this lack of clarity has led to less than optimal compliance with the goals of the CTA. We are concerned that, unless we provide greater specificity, noneducational programming could drive educational programming off the air.

7. While we believe that our proposals to ensure that the public has greater access to information and to clarify the definition of educational and informational programming are important steps toward promoting the goals of the CTA more effectively, we are concerned that these efforts may not suffice to serve the educational and informational needs of children, and to bring about the kind of measurable increase in such programming contemplated by Congress. Accordingly, we also propose to take one of the following three types of action:

- (1) Monitor the amount of broadcasted programming specifically designed to serve the educational and informational needs of children for a specified period of time (e.g., three years) to determine whether our efforts to increase the flow of information to the public and clarify our rules have caused a significant increase in such programming. Stations would be required to submit annual descriptions of their educational and informational programming. At the end of the specified period, the Commission would assess the need for further regulatory action.
- (2) Establish a "safe harbor" quantitative processing guideline, which would specify an amount of programming specifically designed to serve the educational and informational needs of children (e.g., 3 hours per week or 3 increasing to 5 hours per week) that would represent one means of satisfying the CTA's programming obligation and permit staff approval of the children's programming portion of a license renewal application.
- (3) Establish a programming standard – i.e., a rule – that would require broadcasters to air a specified average number of hours (e.g., 3 hours per week or 3 increasing to 5 hours per week) of programming specifically designed to serve the educational and informational needs of children, or demonstrate that the programming they did air, along with other programming-related activities in their market, served the educational and informational needs of children as well as or better than providing an additional amount of programming specifically designed to serve those needs.

As explained more fully below, we seek comment on whether, if we adopt either a processing guideline or a programming standard, the regulation should be sunsetted by December 31, 2004. Such a measure would ensure that the Commission undertakes a review of either type of regulation before that date.

8. The Commission's third principle is that broadcasters should be guided by market forces, to the greatest extent possible, in determining whether they meet their programming obligation by airing shows themselves, or by sponsoring programming aired on other stations. The program sponsorship concept, most relevant to the options of adopting processing guidelines or programming standards, would permit a broadcaster to better utilize other stations' children's programming expertise, would allow some stations to develop audience identification and programming schedules that build child audiences, and could stimulate growth in the production of educational and informational programming, all while reducing disincentives to airing such programming. We do not believe, however, that the CTA permits a licensee to satisfy its programming obligation entirely through sponsorship arrangements. Thus, whatever action we ultimately take in this area, a licensee would not, in fulfilling its obligations under the CTA, be permitted to rely completely on programming it sponsored to air on other stations.

II. BACKGROUND

A. The Current State of Children's Television Programming

9. American children spend considerable time watching television. Recent data show that children from 2 to 17 watch on average more than 3 hours of television each day.⁸ By the time most children reach the age of 18, it is estimated that they will have watched between 15,000 and 20,000 hours of television. In contrast, they will have

⁸The data also indicate that children ages 6 to 17 watch the most television during prime time. For children 2 to 5 years old, the most popular viewing time period is 10:00 a.m to 4:00 p.m. Monday through Friday, with prime time the second most popular. Television Audience 1993, at 14, Nielsen Media Research, 1993. These figures reflect all television viewing, regardless of station type, except for VCR playback. However, information regarding the breakdown of these figures among different media (e.g., over-the-air, cable, MMDS) is not available.

spent less than 13,000 hours in the classroom.⁹ Moreover, many children watch television before they are exposed to any formal education.¹⁰

10. In enacting the CTA, Congress declared that "[o]ur children are this nation's most valuable resource, and we need to pay special attention to their needs."¹¹ At the same time, Congress recognized that many children lack basic reading, math, and other skills.¹² As noted above, Congress concluded that television has the capacity to benefit society by helping to educate and inform our children.¹³ Indeed, studies show that television programs can effectively teach children specific skills. Children who watch "Sesame Street" and "Mister Roger's Neighborhood," for example, have been shown to learn the concepts and skills taught on those programs,¹⁴ and to have enhanced attentional and perceptual abilities.¹⁵ Television can also help prepare children for formal schooling and supplement skills taught in the classroom, and is especially effective when designed to focus on particular age groups.¹⁶ Finally, television can be used effectively to convey important and positive messages about social behavior.¹⁷

⁹See Senate Report at 5. See also House Report at 5. Children usually begin watching television before they start school, and they watch on weekends and during the summer when they are not in school.

¹⁰See Senate Report at 5.

¹¹Id.

¹²Id.

¹³See supra para. 1 (citing Children's Television Act of 1990, Title I, Sec. 101).

¹⁴See Senate Report at 6 (citing Huston, Watkins and Kunkel, Public Policy and Children's Television, American Psychologist, February, 1989 ("Huston et al.")). We are aware as well that some researchers have questioned the "learning gain" of children who watch "Sesame Street." See, e.g., Sorry, Ernie. TV Isn't Teaching, New York Times, November 12, 1994. Nonetheless, based on other studies and evidence, Congress has determined that children benefit in important ways from viewing educational and informational programming.

¹⁵See Milton Chen, Six Myths About Television and Children, Media Studies Journal, Fall 1994, at 108-09 (citing Dr. Daniel Anderson, Professor of Psychology, University of Massachusetts, Amherst).

¹⁶See, e.g., Senate Report at 6.

¹⁷See Huston et al. at 425-26.

11. Recent surveys of children confirm the powerful impact television has on them. In a nationwide survey of 750 children ages 10 to 16, more than one-third said they "often" want to try things they see on TV, and two-thirds said their contemporaries are influenced by what they see on TV.¹⁸ These surveys reaffirm what the Office of Technology Assessment stated in 1990: "[c]ommunication is the process by which culture is developed and maintained," and "[c]ulture can be thought of as the 'glue,' the shared values and practices, that holds a society together."¹⁹

12. As noted above, however, Congress also found that market forces alone have produced "disturbingly little" educational and informational programming on commercial television,²⁰ that market forces were not "sufficient to ensure that commercial stations provide educational and informational programming,"²¹ and that government action to increase the availability of such programming therefore is required.

B. The FCC's Rules and Current Proceeding

13. The CTA imposes an affirmative obligation on broadcast television stations to serve the educational and informational needs of children through not only their "overall programming," but also programming "specifically designed" to serve children's needs.²² The CTA also authorizes the Commission, as part of its license renewal review process, to consider any special nonbroadcast efforts by the licensee that enhance the educational and informational value of programming to children, and any special efforts by the licensee to produce or support programming specifically designed to serve the educational and informational needs of children that is broadcast by another station in the licensee's market.²³ Our current rules generally incorporate the language of the

¹⁸The surveys also illustrated television's impact on children through their own stated concerns regarding the values portrayed on television, with over 60 percent of the children surveyed saying that television encourages such negative values as disrespect for their parents and having sex when they are too young, and 82 percent of the children surveyed saying that television should teach right from wrong. Sending Signals: Kids Speak Out About Values in the Media (a Children Now Poll Conducted by Fairbank, Maslin, Maulin & Associates (1995)).

¹⁹U.S. Congress, Office of Technology Assessment, Critical Connections: Communication for the Future, 181, 182 (1990).

²⁰Senate Report at 7, 9.

²¹Id. at 9.

²²47 U.S.C. § 303b(a)(2).

²³47 U.S.C. § 303b(b)(1) & (2).

statute and also define educational and informational programming as "programming that furthers the positive development of children 16 years of age and under in any respect, including the child's intellectual/cognitive or social/emotional needs."²⁴ In addition, we require broadcasters to air some amount of standard-length educational and informational programming specifically designed for children 16 years of age and under.²⁵ We have adopted no other guidelines regarding the types of programming that may contribute to satisfying a station's renewal review requirement, and our rules contain no requirement as to the number of hours of educational and informational programming that stations must broadcast or the time of day during which such programming may be aired.

14. After developing some experience with our implementation of the CTA's regulatory scheme, we initiated this proceeding with a Notice of Inquiry ("NOI") in 1993 "to seek comment on whether and in what manner our rules and policies might be revised to more clearly identify the levels and types of programming necessary in the long term to adequately serve the educational and informational needs of children."²⁶ Based on an informal review of more than 320 license renewal applications, we did not believe at that time that the level of educational programming performance was consistent with the CTA's long-term objectives. Concluding that the apparent lack of growth in children's educational programming might be largely attributable to broadcasters' uncertainty regarding the scope of their obligation, we sought comment in our NOI on whether: (1) in establishing compliance with the CTA, licensees should rely primarily on standard-length programming that is specifically designed to serve the educational and informational needs of children, and only secondarily on short-segment programming; and (2) the "primary" objective of qualifying "core" programming should be educational and informational, with entertainment as a secondary goal.²⁷ We also sought comment on whether, to provide licensees with clearer guidance and to facilitate the license renewal review process, the Commission should adopt staff processing guidelines specifying an amount and type of children's programming that would permit staff approval of the children's programming portion of license renewal applications.²⁸

²⁴47 C.F.R. § 73.671 Note.

²⁵See Report and Order, 6 FCC Rcd at 2115; Memorandum Opinion and Order, 6 FCC Rcd at 5100.

²⁶Notice of Inquiry in MM Docket No. 93-48, 8 FCC Rcd 1841, 1841 (1993). We received 29 formal comments and 13 formal reply comments in response to our NOI. A list of the parties filing these comments is contained in Appendix A.

²⁷Id. at 1842.

²⁸Id. at 1843.

15. In June 1994, we convened an en banc hearing on the subject of children's television programming. Twenty-nine panelists gave oral presentations to the full Commission on three topics: (1) "Educational and Informational Programming: Will We Know It When We See It?"; (2) "Educational and Informational Programming: How Much Is Enough?"; and (3) "The Economics of Providing Educational and Informational Programming for Children." The panel participants also submitted written comments addressing these issues, as did other interested parties.²⁹

16. Parties responding to our NOI and commenting in connection with our en banc hearing submitted studies both challenging and supporting our tentative finding that there had been little change in the amount of available educational and informational programming since passage of the CTA. According to a station survey submitted by the National Association of Broadcasters ("NAB"), which purported to show an increase in such programming, the average commercial station aired slightly more than 2 hours per week of regularly scheduled, standard-length children's educational programming in the fall of 1990 and 3.6 hours per week of such programming in the fall of 1993.³⁰ According to a survey of member stations conducted by the Association of Independent Television Stations, Inc. ("INTV"), which also claimed that the amount of educational programming had increased, the average independent station aired 4.64 hours per week

²⁹See En Banc Hearings on Children's Television in MM Docket No. 93-48, June 28, 1994. In addition to the testimony and comments submitted by hearing panelists, we received eight formal comments in connection with the en banc hearing, and ten formal replies. A list of the hearing participants and parties submitting these comments is contained in Appendix B.

Following the release of our NOI and our en banc hearing, we received more than 500 informal comments, including letters from individual members of the public, favoring one or more of the rule changes suggested in our NOI. In addition, we received hundreds of letters from the public generally supporting stricter rules governing children's educational and informational television programming, and 23 letters from the public generally opposing stricter rules governing such programming.

³⁰See NAB En Banc Reply Comments at 2-4 and Attachment 1. NAB asked commercial television stations to list their children's programming that met the following definition: programming originally produced and broadcast for an audience of children 16 years of age and younger which serves their cognitive/intellectual or social/emotional needs. (Although NAB styled this document "Comments," it is referred to herein as Reply Comments because it was filed on the deadline for reply comments and responds to comments filed by other parties.)

of regularly scheduled, standard-length educational programs in the first quarter of 1994.³¹ In a study of license renewal applications filed in 1992, Dr. Dale Kunkel of the University of California, Santa Barbara, found that stations reported airing on average 3.4 hours per week of regularly scheduled, standard-length programming specifically designed to meet children's educational needs, but he concluded that this figure is likely to be inflated because it accepts at face value station claims as to the educational value of programs, and because many of the programs identified by stations were of dubious educational value to children.³² Squire Rushnell, former Vice President of Children's Television for ABC from 1973 to 1989, performed a study comparing the amount of children's educational and informational programming produced by networks in the years 1975, 1980, 1985, and 1990, as well as plans for the then upcoming 1994/95 season. Rushnell's results show that in 1975 the three commercial networks were presenting a combined average of 9-3/4 hours per week of children's programs specifically designed as educational. In 1980, this figure rose to 11-1/4 hours per week, but by 1990 had fallen to 1-3/4 hours. Projections for the 1994/95 season showed that three commercial networks (ABC, NBC, and CBS) would present a combined weekly average of 5-3/4 hours of educational children's programming. With the addition of Fox, the weekly average would increase to 9 hours.³³

³¹See INTV En Banc Reply Comments at 2-3 and Appendix A at 5-7. INTV's survey of its member stations included both non-affiliated independent stations and Fox-affiliated independent stations. Unlike NAB, INTV did not ask respondents to report programming conforming to a precise definition, but, rather, asked them to list all programs broadcast during the first quarter of 1990 and the first quarter of 1994 that the stations believed satisfied the FCC's requirements to provide programming that met the educational and informational needs of children. According to INTV's results, respondents reported airing 42 such programs per week during the first quarter of 1990, and 322 such programs per week during the first quarter of 1994. However, INTV did not supply an average number of hours per week for the first quarter of 1990.

INTV also conducted a study of market clearances (i.e., times a program aired in a market) of syndicated children's educational programs which showed that from 1990 to 1993 the number of such market clearances increased from 576 to 1,746. INTV states that its study of market clearances included only programs it believed were "unquestionably" educational and informational and provided a list of these programs. See INTV En Banc Reply Comments, Appendix A, at 2-4.

³²Kunkel NOI Comments at 3-4, 6-7. Dr. Kunkel's study contains a list of programs identified by stations as specifically designed to meet children's educational needs, which include programs such as "G.I. Joe," "Teenage Mutant Ninja Turtles," "The Jetsons," and "Full House." Id., Table 2.

³³Squire Rushnell En Banc Comments.

17. After careful review of these studies, as well as all other information regarding the availability of educational broadcast programming provided in response to our NOI and in connection with our en banc hearing, we find that this evidence is insufficient to support a conclusion as to whether or not the educational and informational needs of children are being met, including whether the CTA and our existing regulations have precipitated a significant increase in the amount of children's educational and informational programming carried by commercial broadcasters. In particular, none of the studies submitted enables us to determine accurately what amount of programming specifically designed to educate and inform children is currently being aired by commercial stations.

18. Indeed, the usefulness of all of the studies submitted is limited. Like Dr. Kunkel's study, the station surveys submitted by both the NAB and INTV accept at face value station claims as to the educational content of their programming. Our experience with such face value claims calls into question the reliability of the results presented and the amount of programming on the air they would purport to document. A cursory review of children's programming reports submitted as part of license renewal applications reveals that broadcasters have misidentified certain programs as contributing to their compliance under the CTA.³⁴ Others who have reviewed the programming some stations have claimed as educational have found that a significant number of claimed programs were inappropriate, which further supports the suggestion that the figures produced by the above studies may be inflated. The Center for Media Education, filing jointly with other parties ("CME et al."), submitted results of a review of commercial television license renewal applications which it conducted with the Institute for Public Representation of the Georgetown University Law Center in 1992. Based on this study and continued review of license renewal applications, CME found that many stations were listing in their applications programs with no educational content, and concluded that most broadcasters were not increasing the number of hours they devote to children's educational programming.³⁵ In addition, the stations that chose to respond to the NAB and INTV surveys may have made a more significant effort to provide educational programming than those that did not respond, which may have resulted in an

³⁴Such programs include, for example, "Super Mario Brothers" and "Slimer—The Real Ghostbusters." Other stations have claimed credit for their general audience news programming or game shows such as "Wheel of Fortune." The NAB and INTV studies did not identify the specific programs reported as "educational" in their survey results.

³⁵See CME et al. NOI Comments at 3-5 and Appendix A-1. (CME submitted its NOI Comments and Reply Comments, and its En Banc Reply Comments, in conjunction with a number of other organizations, which are identified in Appendixes A and B.) NAB challenged CME's conclusions, arguing that the renewal applications reviewed were filed only shortly after the Commission's children's programming rules became effective, at a time when stations had had little opportunity to adjust to the new requirements. See NAB En Banc Reply Comments at 10.

overstatement of the effort being made by commercial television broadcasters overall.³⁶ Although INTV did include the list of programs reflected in its study of market clearances, this study is limited to syndicated programming. Squire Rushnell's study, on the other hand, is limited to network programming. Moreover, NAB points out several problems that it believes exist with the Rushnell study, including use of an incorrect amount of educational and informational programming for both 1980 and the 1994/95 season, and notes that stations affiliated with the networks today air a considerable amount of non-network educational and informational programming for children.³⁷

19. Even if we accept the conclusion drawn by some parties that the amount of educational programming on the air has increased since implementation of our rules, the degree of that increase appears to be quite modest at best. Thus, we are not convinced that our current rules are prompting an adequate response to the CTA. Accordingly, we feel that it would be desirable to precipitate a more substantial and significant increase in the amount of children's educational and informational programming – in particular, programming specifically designed to educate and inform children – in the future. As discussed more fully below, we tentatively conclude that the first steps toward achieving this goal should be the following: (1) to take measures to improve the flow of programming information to the public, and (2) to adopt a definition of programming specifically designed to serve children's educational and informational needs. In addition, we believe that further action is needed to ensure an adequate supply of programming specifically designed to meet children's educational and informational needs. However, as indicated above, the record compiled thus far is inconclusive with respect to what form that action should take, and we therefore seek comment below on a range of options.

20. In conjunction with the description and analysis of each of the proposals and options described more specifically below, we must reiterate to all interested parties the importance of providing us with information and studies in addition to those already submitted, as well as analysis of any useful information or studies already on record. Of obvious importance are materials documenting changes in the nature and amount of children's programming, especially recently. In providing such studies and analysis, commenters should bear in mind the various infirmities that we have already found that limit the utility of the material already presented to us in this inquiry. Such information could be of utmost significance in assisting us in designing rules that achieve the goals of

³⁶CME et al. criticized the NAB study on this ground among others. See CME et al. En Banc Reply Comments at 4-7 and Appendix.

³⁷ See NAB En Banc Reply Comments, Attachment 5. The results of other studies submitted also have limitations. For example, that of the South Florida Preschool PTA (see South Florida PTA NOI Comments), which claims that the amount of educational programming aired by commercial stations in the area it surveyed is insufficient, is limited in geographical scope.

the CTA. Finally, we note that if data were submitted that show that the educational and informational needs of children are being met consistent with the goals of the CTA, we would reassess the need for further action.³⁸

III. PROPOSED REVISIONS OF CHILDREN'S PROGRAMMING REQUIREMENT

A. Improving the Flow of Information to the Public to Facilitate Enforcement of the CTA

21. As stated above, one principle we intend to apply in this proceeding is that programming quality judgments are best made by the audience, not the government. Here, commenters have convinced us that one way to ensure that Commission licensees provide sufficient amounts of children's educational programming to comply with the CTA is to facilitate the ability of the public, especially parents, to interact in the market

³⁸We also note in this context that, under our present policy, we require the licensee to submit at renewal time the summary of its programming response and other efforts directed to the educational and informational needs of children that it maintains in its public file. Report and Order, 6 FCC Rcd at 2116. We have further specified that such records should include programming specifically designed to serve children's educational and informational needs and should indicate, at a minimum, the time, date, duration and a brief description of the program or nonbroadcast effort the licensee has made. 47 C.F.R. § 73.3526(a)(8)(iii); Report and Order, 6 FCC Rcd at 2116. See also Memorandum Opinion and Order, 6 FCC Rcd at 5102 ("[C]ommercial licensees must submit all of their children's program lists at renewal time. . . . Interested members of the public have the right to know the basis for a claim that a station has met the educational and informational needs of children.") Dr. Kunkel, in his study of license renewal applications filed in 1992, found that more than a quarter of all stations failed to comply with these reporting requirements. More than one-fifth of stations did not identify any of their claimed educational content as "specifically designed for children," while others submitted only lists of their children's program titles, omitting other related information such as days and times of broadcast or providing no content descriptions. Kunkel NOI Comments at 1, 3-7. We emphasize that we expect our licensees to comply with our reporting requirements.

and in the regulatory process.³⁹ It is only through parental involvement that the CTA will be successful.

22. In administering the CTA, we do not believe that it is necessary for the Commission to evaluate the quality of children's programming if the public has sufficient opportunity – through information – to play an active role in assuring that the ultimate goals of the statute are achieved. Providing this opportunity accomplishes two things. First, it allows the Commission to rely more on marketplace forces as a critical mechanism for achieving the goals of the CTA. For example, if parents have the opportunity to know in advance that a particular program has an educational and informational focus, and when such programs will be shown, they can encourage their children to watch such programming and thereby increase audience, ratings, and the incentive of broadcasters to air, and programmers to supply, more of such programming. We note that television research indicates generally that parents act on their objections to television programs and that programming information could help parents influence the shows viewed by children. Indeed, one recent study examines the impact of viewer advisories on a particular subset of programs which carried such advisories, specifically prime time movies shown on network television between 1987 and 1993.⁴⁰ Similarly, easy access to information about a station's past and planned performance in this area would permit the public to exercise its market prerogatives more effectively by facilitating viewing campaigns and related efforts to influence station performance by coordinating contacts with the station and its advertisers, and by otherwise bringing community pressure to bear. Indeed, given the available evidence that parents do use information to exercise their market prerogatives, we believe that the current

³⁹The American Psychological Association ("APA"), which proposed in response to our NOI the empowerment of the public through information, indicated that better programming information, and in particular advance notice of educational programs, would assist parents in selecting programs for their children. APA NOI Comments at 5-6. Dr. Kunkel and The National PTA, too, advocated such advance notice to help parents make programming choices. Kunkel NOI Reply Comments at 17-19; The National PTA En Banc Comments at 14-15.

⁴⁰See Hamilton, Marketing Violence: The Impact of Labeling Violent Television Content, Dewitt Wallace Center for Communications and Journalism Working Paper Series, Terry Sanford Institute of Public Policy, Duke University, December 1994. This study indicates, using a regression analysis compensating for external factors such as scheduling, promotion, and content and program preferences of various demographic groups, that viewing among children 2 to 11 was statistically significantly lower for movies carrying viewer discretion advisories. These results provide, among other things, statistical support from ratings data for the conclusion that parents do act upon information contained in program advisories to discourage the viewing of violent or otherwise objectionable programming among children.

insufficiency of over-the-air educational programming may be attributable, at least in part, to the dearth of programming information in the marketplace.

23. As the APA has also pointed out, the second thing that increasing the flow of information to the public should accomplish is to facilitate enforcement of the CTA.⁴¹ Parents, educators, and grass roots groups can play a more effective role in both the renewal process and in ongoing monitoring efforts during the course of a station's license term if information about a station's efforts in programming for children is made readily available and understandable.

24. Accordingly, we tentatively conclude that stations should be required to identify programs specifically designed to serve the educational and informational needs of children at the time they are aired, and, to the extent that programs are scheduled, that licensees should provide such identifying information to program guide publishers. Not only would this information facilitate public involvement as discussed above, but it also appears to us that stations could use this as an opportunity for promoting their educational programs. We believe that such identifications need not consume large amounts of print or air time, and that they could be as simple as an icon.⁴² We ask commenters not only to address this specific proposal and how it could be implemented, but also to propose any other methods for informing the public of upcoming children's educational and informational programming.

25. We also seek comment on how we can improve the public's ability to monitor a licensee's specific efforts to provide more programming specifically designed to serve the educational and informational needs of children. At present, licensees are required to compile reports, on an annual or quarterly basis (at the licensee's discretion), containing information about the children's programming they air, including the time, date, duration and description of the programs.⁴³ These reports must be maintained in the station's public inspection file. There appear to be a number of changes we could make in the existing requirements to facilitate public access to and use of the type of information now appearing in these reports. One simple change would be to require the station to include the name of and method for contacting the person at the station responsible for collecting comments on the station's compliance with the CTA. We ask for comment on how such a requirement could be implemented without being overly burdensome. To the extent we amend our rules to define "core" programming

⁴¹APA NOI Comments at 5-6. See also Kunkel NOI Reply Comments at 17-19; The National PTA En Banc Comments at 14-15; CME et al. NOI Comments at 37-39.

⁴²Such methods are used in other countries. Australian television stations, for example, use an icon indicating a program suitable for children prior to showing a children's program.

⁴³See 47 C.F.R. § 73.3526(a)(8)(iii).

(discussed infra at paras. 36-43), it also appears reasonable to require licensees to provide a brief explanation of how particular programs meet that definition. In addition, if we adopt the program sponsorship proposal described below, we believe that licensees should be required to include information regarding both the programs they aired themselves and the programs they sponsored so that this information is verifiable.

26. More generally, we seek comment on ways of rendering the required information in an easily understandable yet comprehensive form. At a minimum, we believe that the reports should be physically separated from the rest of the material in the public inspection file, as is the licensee's political file, so that parents and other interested parties can view the information without having to search through other unrelated materials. In addition, we believe that licensees should make efforts to publicize the reports, by, for example, announcing their existence and location periodically over the air. We also ask whether these reports should be produced annually or quarterly, or whether we should, as we do now, allow stations to choose one of these two options.

B. Definition of Programming "Specifically Designed" to Serve Children's Needs

27. Background. Under both the CTA and our rules, licensees are allowed to demonstrate that they have met their children's programming requirement in part through general audience and entertainment programs that contain information or illustrate messages helpful to children, but they must also air some programming "specifically designed" to serve the educational and informational needs of children.⁴⁴ Our current definition of educational and informational programming – "programming that furthers the positive development of children 16 years of age and under in any respect, including the child's intellectual/cognitive or social/emotional needs"⁴⁵ – is very broad and makes no distinction between general audience/entertainment programs and programs that are specifically designed to educate and inform. As we explained in our Memorandum Opinion and Order, we adopted this very general definition because we thought giving broadcasters wide latitude to make their own children's programming judgments would foster creativity.⁴⁶ In addition, we explained our belief that Congress intended the Commission to defer to the "reasonable programming judgments" of licensees.⁴⁷ We also adopted permissive guidelines for the exercise of licensees' discretion in applying this

⁴⁴47 U.S.C. § 303b(a)(2); 47 C.F.R. § 73.671(a).

⁴⁵47 C.F.R. § 73.671 Note.

⁴⁶Memorandum Opinion and Order, 6 FCC Rcd at 5099.

⁴⁷Id. (citing 136 Cong. Rec. S. 10121 (remarks of Sen. Inouye) (July 19, 1990)).

definition, encouraging them to use these guidelines in assessing the needs of children in their communities and deciding on the types of programming to air.⁴⁸

28. We found in our review of license renewal applications that some broadcasters were claiming as "educational and informational" programs that had very little educational content. Thus, having preliminarily found that clarification of our definition might be warranted, we sought comment in our NOI on two relevant views: (1) that licensees should rely primarily on standard-length programming that is specifically designed to serve the educational and informational needs of children, and only secondarily on short-segment programming; and (2) that the "primary" objective of qualifying "core" programming should be educational and informational, with entertainment as a secondary goal.⁴⁹

29. Comments. Several broadcast organizations, including NAB and INTV, argued in response to our NOI that our current broad definition of educational and informational programming should be retained. According to NAB, for example, this definition strikes the appropriate balance between allowing licensees to make their own programming decisions on the one hand and providing guidance to the industry and Commission staff on the other.⁵⁰ In contrast, public interest groups, including educational associations, consumer groups, and children's organizations, as well as other interested parties, generally agreed that our current definition is so vague that it has failed to prompt an adequate response by broadcasters and should therefore be narrowed.⁵¹

30. A number of commenters, including Children's Television Workshop ("CTW"), the Walt Disney Company ("Disney"), CBS, INTV, and NAB, disagreed with our suggestion in the NOI of requiring education to be the "primary" objective of core programming on the ground that such a requirement relies on a "false dichotomy" between education and entertainment. These parties expressed the view that children's shows must be entertaining to attract an audience, and they noted that highly respected educational shows currently on the air have a large entertainment component.⁵²

⁴⁸Report and Order, 6 FCC Rcd at 2114-15.

⁴⁹8 FCC Rcd at 1842-43.

⁵⁰See NAB NOI Comments at 19-20. See also INTV NOI Comments at 11-12 and NOI Reply Comments at 1-6; Tribune NOI Comments at 4.

⁵¹See, e.g., CME et al. NOI Comments at 9-12; Charren En Banc Comments at 12.

⁵²See, e.g., CTW NOI Comments at 6-8; Disney NOI Comments at 1-10 and En Banc Comments at 1-5; INTV NOI Comments at 12, NOI Reply Comments at 2-6, and En Banc Reply Comments at 11, 14-15; NAB NOI Comments at 21 and NOI Reply

However, other commenters, including the APA and Westinghouse Broadcasting Company, Inc. ("Westinghouse"), supported our suggestion that education should be the "primary" objective of core programming.⁵³ As an alternative to our suggestion, Disney proposed that qualifying programming should have education as a "significant purpose."⁵⁴

31. With respect to the issue of standard-length versus short-segment programming, comments were generally divided between public interest organizations, which favored standard-length shows, and broadcasters, which stressed the advantages of short-segment programming. A number of parties, including Capital Cities/ABC, Inc. ("ABC"), Fox Children's Network ("Fox"), NAB, and INTV, argued that short-segment programs are better suited to the attention spans of young children. Broadcasters also pointed out that short segments can be aired immediately adjacent to or in the middle of highly rated children's entertainment shows, thereby ensuring that they reach a large audience, and can be produced more easily and cheaply by individual stations.⁵⁵ Commenters such as the APA, CME et al., and Dr. Kunkel disputed the contention that the attention span of young children is too limited for 30-minute programs and argued that scientific data demonstrate that standard-length programming is in fact more educational than short segments.⁵⁶ These commenters also pointed out that standard-length programs generally are regularly scheduled and therefore listed in program guides, which enables parents and children to select such programming, if desired.⁵⁷

Comments at 6-7; CBS NOI Comments at 32-35; National Broadcasting Company, Inc. ("NBC") NOI Comments at 29-33 and En Banc Comments at 4-5; Thirty-Six Broadcasters NOI Comments at 12-14; and Pulitzer NOI Reply Comments at 7.

⁵³See APA NOI Comments at 4-5; Westinghouse NOI Comments at 5-7.

⁵⁴See Disney NOI Comments at 11-12, NOI Reply Comments at 6-11, and En Banc Comments at 5.

⁵⁵See, e.g., INTV NOI Reply Comments at 6-10 and En Banc Reply Comments at 13-14; NAB NOI Comments at 18-19 and NOI Reply Comments at 5-6; Associated Broadcasters, Inc., and Galloway Media, Inc. NOI Comments at 3-6; ABC NOI Comments at 2-6 and En Banc Comments at 4-5; Fox NOI Comments at 4-7 and En Banc Comments at 5-8; Duhamel Broadcasting Enterprises NOI Comments at 2-3.

⁵⁶See, e.g., APA NOI Comments at 2-3 and NOI Reply Comments; Kunkel NOI Reply Comments at 7-14; CME et al. NOI Comments at 12-13.

⁵⁷See, e.g., APA NOI Comments at 2-3 and NOI Reply Comments at 7; CME et al. NOI Comments at 13 and En Banc Reply Comments at 26-28; The National PTA En Banc Comments at 15-16.

32. Many commenters, in addition to responding to the specific questions we raised in our NOI, suggested other ways we might revise our definition of educational and informational programming to promote the goals of the CTA more effectively. Thus, for example, Peggy Charren and CME et al. proposed that the Commission should count as "core" programming only programming that is aired between 7:00 a.m. and 10:00 p.m.⁵⁸ According to CME et al., a large percentage of new educational shows have been aired between 5:30 a.m. and 7:00 a.m., even though CME et al. claim that most children do not watch television during that time period.⁵⁹ CME et al. further suggest that, because the needs and interests of different age groups vary widely, core programming should be targeted to serve specific age groups and stations should be required to identify the target group of each program claimed as "core" in their license renewal applications.⁶⁰

33. Among other suggested rule revisions were CTW's idea of requiring that educational and informational programming specifically designed for children (1) be produced with the assistance of independent educational advisors; (2) be created to fulfill explicit written educational goals; and (3) be evaluated for effectiveness.⁶¹ The National PTA and CME et al. suggested that educational and informational programming be defined to include programs addressing certain subject areas, such as history, science, literature, fine arts, and current events.⁶²

⁵⁸See Charren En Banc Comments at 12; CME et al. NOI Comments at 14-16.

⁵⁹See CME et al. NOI Comments at 14-16.

⁶⁰See CME et al. NOI Comments at 32-34. See also Charren En Banc Comments at 12; The National PTA En Banc Comments at 10-11, 12-13.

⁶¹See CTW En Banc Comments at 2-3.

⁶²See The National PTA En Banc Comments at 12; CME et al. NOI Comments at 11 and En Banc Reply Comments at 12-13. CME et al. suggested in particular that the Commission adopt a revised general definition of educational and informational programming that would include programs that further an understanding of certain subjects and that this definition should be distinct from a definition of core programming. Several parties endorsed the CME-proposed definition, including Interfaith Broadcasting Commission ("Interfaith") (Interfaith En Banc Comments at 6), and Office of Communication of the United Church of Christ ("UCC") (UCC En Banc Reply Comments at 2). (Although UCC styled this document "Comments," it is referred to herein as Reply Comments because it was filed by the deadline for reply comments but not by the deadline for comments.) Interfaith and UCC would also include religion and positive moral values as appropriate topics for educational children's programming.

34. Discussion. We continue to believe that broadcasters should be permitted to exercise programming discretion to the fullest extent possible consistent with the requirements of the CTA. We tentatively conclude, however, that our current definition of educational and informational programming does not provide licensees with sufficient guidance regarding their obligation to air programming "specifically designed" to serve children's educational and informational needs, which is the only category of programming that the CTA specifically requires every licensee to provide.

35. Our review of license renewal applications reveals that many licensees do not clearly distinguish between the general audience/entertainment programs they have shown that serve children's needs and the programs they have aired that were specifically designed to educate and inform children. Moreover, stations are continuing to identify general audience and entertainment programming in their license renewal applications as specifically designed to serve children's educational and informational needs.⁶³ In light of these circumstances, and guided by the principle that our rules should be clear, simple, and fair, we are inclined to think that we should replace our current broad definition of educational and informational programming with a more particularized definition of programming "specifically designed" to serve children's educational and informational needs – i.e., "core" programming – that will provide licensees with clear guidance regarding the types of programming that will meet their obligation to air such programming. We do not believe that a definition of general audience and entertainment programming that serves children is needed, because licensees appear to be airing sufficient amounts of such programming. In contrast, we believe that a clear definition is needed to stimulate an adequate supply of programming "specifically designed" to serve children in view of what appears to be continuing confusion among licensees in this regard. In our view, a definition of such programming would prompt those licensees that are not already doing so to take steps to improve their service to children, because it would prevent them from relying largely on programs that serve children only marginally to meet their obligation under the CTA.

36. Proposal. We tentatively conclude that we will define "core" educational programming as those programs that meet the following requirements: (1) the program is specifically designed to meet the educational and informational needs of children ages 16 and under (i.e., has education as a significant purpose); (2) the educational objective of the program and the target child audience are specified in writing in the children's programming report described above; (3) the program is aired between the hours of 6:00 a.m. and 11:00 p.m.; (4) the program is regularly scheduled; (5) the program is of a substantial length (e.g., 15 or 30 minutes); and (6) the program is identified as educational children's programming at the time it is aired, and instructions for listing it as educational programming are provided by the licensee to program guides.

⁶³Recent programs identified as such include, for example, "Beverly Hills 90210."

37. The elements of our proposed definition are designed to address both our own concerns raised in the NOI and those expressed by commenters. We note first in response to The National PTA and CME et al. that we do not believe that it is appropriate to limit educational programming to any identified list of subjects. In addition, we think that it should be left to broadcasters to decide whether they need or wish to hire educational advisors to assist them with the production of programming. Thus, we do not propose to adopt either of these ideas. With respect to the concern expressed by Disney and others that educational programming must be entertaining to be successful, we wish to make clear that it is our desire to encourage producers to make educational programming that is attractive to children. At the same time, we must ensure that broadcasters meet their obligation under the CTA to air programming specifically designed to educate and inform.⁶⁴ We therefore propose to require that any program which is claimed to be "specifically designed" to meet children's needs have education as "a significant purpose." We believe that this terminology makes clear that education need not be the only purpose of programming designed to meet the educational needs of children, but must be more than an incidental goal. We invite comment on this tentative conclusion.

38. With respect to the second element of our core programming definition, we tentatively agree with those commenters who have suggested that licensees be required to specify in writing the educational objective of a core program, as well as its target child audience, because we believe that such a requirement will help licensees focus on children's specific educational needs. We also believe that this information will assist parents to better understand licensees' programming efforts and thus afford them the means to participate with licensees in developing effective and responsive children's programming. We propose that such information should be included in the children's programming report that licensees place in their public inspection file and that we propose to make more readily accessible to the public.

39. Some commenters have argued that the Commission should take action to ensure that there is an adequate supply of core programming targeted to every age group, asserting that there is little such programming for pre-school and elementary-aged children.⁶⁵ We recognize the possibility that licensees may be induced to air programming for children over 12 by the fact that (1) this group has greater spending power than young children, (2) shows for older children may attract general audiences as

⁶⁴We note that in proposing its "significant purpose" standard, Disney urges the Commission to discard the concept of "core" programming altogether. Disney NOI Reply Comments at 2-6. However, the CTA requires broadcasters to air programming specifically designed to be educational and informational, and it is this type of programming that is the focus of our concern.

⁶⁵See, e.g., CME et al. NOI Comments at 34-37; The National PTA En Banc Comments at 11.

well as children, and (3) programming designed for children ages 12 and under is subject to commercial limits, whereas programming for older children is not.⁶⁶ We continue to believe that it would be undesirable to require broadcasters to target particular segments of the child audience, and we prefer to leave licensees maximum flexibility to choose which segments of the child audience they wish to serve.⁶⁷ Moreover, we do not have adequate data showing that in fact younger age groups are underserved relative to other children. For this reason, we ask those who disagree with our tentative view on this matter to provide us with data relevant to whether there is a shortage of educational programming targeted to certain age groups. If the data show that younger children are indeed underserved, what would be the best way to correct the problem? Should we in some way provide additional incentives for broadcasters to develop programming designed for children ages 12 and under or to any subset of this group?

40. As for the third element of our definition of core programming, we also agree with those who argue that credit at license renewal time should be given only for programming shown during hours when children are likely to watch television. We tentatively propose to credit as core programming children's educational programs aired between 6:00 a.m. and 11:00 p.m. The data indicate that these hours include the time periods most popular for television viewing among children 2 through 17. Thus, as noted above, children ages 6 to 17 watch the most television during prime time. For children 2 to 5 years old, the most popular viewing time period is 10:00 a.m. to 4:00 p.m. Monday through Friday, with prime time the second most popular.⁶⁸ Although several commenters argued that core programming should be aired between 7:00 a.m. and 10:00 p.m.,⁶⁹ we are inclined to adopt a wider permissible time frame. We propose to credit programming aired up to 11:00 p.m. because we believe that children watch television through the entire period of prime time.⁷⁰ In addition, we agree with commenters that expressed the view that programming aired as early as 6:00 a.m. is

⁶⁶See CME et al. NOI Comments at 35; The National PTA En Banc Comments at 11.

⁶⁷ See Report and Order at 2114; Memorandum Opinion and Order at 5100.

⁶⁸See supra note 8 and Appendix D.

⁶⁹See, e.g., Charren En Banc Comments at 12; The National PTA En Banc Comments at 8; CME et al. En Banc Reply Comments at 29-32. The APA suggests that core programming should be shown between 7:00 a.m. and 9:00 p.m. APA NOI Comments at 5.

⁷⁰See supra note 8. See also Report and Order, Enforcement of Prohibitions Against Broadcast Indecency in 18 U.S.C. § 1464, GC Docket No. 92-223, 8 FCC Rcd 704, 707 (1993), appeal pending sub nom. ACT v. FCC, Case No. 93-1092 (D.C. Cir.) (finding that most of children's television viewing occurs during prime time hours).

valuable because not an insignificant number of children are in the audience during this time.⁷¹ However, we are concerned that educational programs not be routinely relegated to the 6:00 a.m. to 7:00 a.m. hour, which may be earlier than many children watch television, simply because it may be a less costly time for licensees to discharge their educational programming obligation. Accordingly, we solicit further comment on whether core program hours should include 6:00 a.m. to 7:00 a.m. If so, and if the data confirm that fewer children watch at this time than later in the day, should we limit the percentage of a station's total core programming that may be shown during this hour? We invite comment on how we can provide incentives to air children's educational and informational programming at times when children are most likely to be watching.

41. Turning to the fourth element of our definition of core programming, we are currently inclined to require that such programming be regularly scheduled because we think that it is important for children and their parents to be able to easily anticipate when educational programming will be aired. However, we do not wish to create a disincentive to air children's educational specials, which may not be regularly scheduled or which may air at relatively infrequent intervals. We ask for comment on whether we should require core programs to be regularly scheduled and, if so, how often and in what manner programs should be scheduled in order to be considered "regularly" scheduled (e.g., once a week, once a month, or so long as the program can appear in program guides).

42. With respect to the fifth element of our definition of core programming, we are also inclined to require that core programming be of substantial length. Clearly, a standard-length program – generally understood to be at least one half-hour long⁷² – would satisfy this requirement. Such length programs are typically regularly scheduled and therefore available to the child audience at predictable times. A shorter length program, however, may nevertheless reflect a comparable level of service by a station to its child audience. Moreover, it is certainly possible to schedule 15-minute programs regularly and have such programming listed in program guides. We ask commenters to address the extent to which such programs are now listed in these guides. More generally, we ask for comment on what length of program should satisfy the proposed requirement that core programming be of substantial length. While we are inclined to require some degree of time commitment, we recognize that short-segment programming can play a useful role in serving the needs of children and we do not wish to give broadcasters a disincentive to air educational short segments that provide helpful information or respond to local needs. Accordingly, we will consider alternative views on this element of our proposed definition. More specifically, we ask whether short segments that are specifically designed to serve children's educational needs should be credited as core programming and, if so, how they should be credited. Should we, for

⁷¹See NAB En Banc Comments, Attachment 1, at 7, and Attachment 2A.

⁷²See NOI, 8 FCC Rcd at 1842 n.12.

example, allow a certain percentage of core programming to consist of short segments? We are also interested to know whether broadcasters might want to meet a part of their core programming obligation by airing educational segments embedded within a standard-length noneducational program. Although we do not believe that the noneducational programs in which such segments are embedded should be credited as core programming, we seek comment on whether the segments themselves should be counted as core educational programming, and, if so, how they should be credited.

43. With respect to the sixth element of our definition, as discussed above, we propose that stations identify "core" programs as educational and informational at the time they are aired. In addition, to the extent that programs are scheduled, we propose to require that licensees make available the necessary information for listing them as educational and informational in program guides.⁷³ We ask for comment on this proposal, as well as other ideas about how stations can inform the public of upcoming children's educational and informational programming.

44. Finally, we seek comment on whether the permissive guidelines we currently encourage broadcasters to use to assess community needs should be retained in any form if we adopt our proposed definition of core programming, and, if so, how they should be used.⁷⁴ The assessment criteria we adopted as permissive guidelines are (1) the circumstances within the community, (2) other programming on the station, (3) programming aired on other broadcast stations within the community, and (4) other programs for children available in the broadcaster's community of license.⁷⁵ To the extent our proposed definition has the effect of refocusing broadcasters' efforts in this area, a set of assessment guidelines may be unnecessary.

C. Further Options

45. Background. We believe that our proposals to ensure that the public has fuller, more accessible programming information, and to define programming "specifically designed" to serve the educational and informational needs of children, would be good steps toward achieving the goals of the CTA more effectively. However, we are concerned that increased public information and a clear definition of core programming may not be enough to bring about the kind of measurable increase in educational and informational programming contemplated by Congress. As we have indicated, we are disappointed that the amount of such programming on broadcast television has not increased as much as anticipated since we implemented our current

⁷³See supra para. 24.

⁷⁴See supra para. 27.

⁷⁵See Report and Order, 6 FCC Rcd at 2114-15.

rules, and we expect to see further improvement. To ensure such improvement, we believe it necessary to take some type of further action.

46. When we adopted our current rules, we decided against imposing any kind of quantitative processing guideline or standard because Congress "[did] not intend that the FCC interpret this section as requiring a quantification standard."⁷⁶ As we then stated, we also feared that a quantitative processing guideline might have the unintended effect of creating a ceiling on the amount of educational and informational programming on the air.⁷⁷ Thus, we declined to establish a processing guideline and stated instead that the amount of "specifically designed" programming needed to comply with the CTA was likely to vary according to different circumstances, including the type of programming aired.⁷⁸ However, as noted above, we sought comment in our NOI on whether a processing guideline specifying an amount and type of children's programming should be adopted to provide clearer guidance to licensees and facilitate staff grant of license renewal applications.⁷⁹

47. Comments. While many broadcasters and broadcast organizations, including NAB and NBC, were opposed to clarifying the amount of programming that would comply with the CTA, others, such as INTV, Tribune Broadcasting Company ("Tribune"), and Act III Broadcasting, Inc. ("Act III"), agreed with the NOI that clarification would be useful to licensees.⁸⁰ INTV also stated that the market would respond to new demand for programming, and perhaps do so more efficiently, if that demand were made more stable and predictable by the establishment of specific expectations by the Commission. In addition, INTV expressed the view that specific guidance as to the Commission's expectations is likely to effect an increase in the overall amount of educational and informational programming because it will encourage stations that have been uncertain about their obligation to air at least the minimum amount expected.⁸¹

48. Some of those opposed to clarified standards argued that better results would be achieved by permitting licensees to exercise their discretion in deciding how much

⁷⁶See Senate Report at 23 and House Report at 17.

⁷⁷See Memorandum Opinion and Order, 6 FCC Rcd at 5100.

⁷⁸See Report and Order, 6 FCC Rcd at 2115.

⁷⁹8 FCC Rcd 1841, 1842-43.

⁸⁰INTV NOI Comments at 7-8; Tribune Comments at 1-2, 12-13; Act III NOI Comments at 10-11. INTV stated, for example: "Specificity will add much needed certainty to the renewal and licensing process." INTV NOI Comments at 7.

⁸¹INTV NOI Comments at 7-8.